

Secretary's Order No.: **2006-A-0005**

RE: Proposed Amendment to Delaware Regulation #1201:  
Accidental Release Prevention Regulation

Date of Issuance: February 13, 2006

Effective Date of the Amendment: March 11, 2006

**I. Background**

A public hearing was held on December 5, 2005, to receive comment on proposed amendments to the existing Delaware No. 1201 entitled, "Accidental Release Prevention Regulation". The Department is planning to amend the Delaware regulation pertaining to this matter to include the 1999, 2000, and 2004 amendments made by the Environmental Protection Agency (EPA) to the Accidental Release Prevention Requirements contained in Federal Rule 40 CFR Part 68. In addition, several minor changes and corrections are proposed for the "Additional Delaware Accident Release Prevention Provisions" contained in Section 6 of the Regulation. Specifically, this includes minor changes to the "Delaware only" lists, and simplifying the Delaware risk management plan submission requirements.

Of note is the fact that Federal amendments pertaining to this issue are already in effect, and this proposed Delaware amendment will have no impact on them. The main purpose of this proposed amendment is to correct the existing Delaware regulation, and to bring it into agreement with the most recent Federal rule changes.

In preparation for the hearing, a public workshop was held by the Emergency Prevention and Response Branch of the Department on September 29, 2005, at which time several minor comments were received and addressed. At both the time of the hearing, and subsequent to the hearing (the record was held open through December 15, 2005 for public comment), the Department received no public comments or concerns about these proposed amendments. Following the close of the record on December 15, 2005, the Air Quality Management section of the Department confirmed in its memorandum to the Hearing Officer dated January 6, 2006 that no additional public comment had been received with regard to this matter. Proper notice of the hearing was provided as required by law.

After the hearing, the Hearing Officer prepared her report and recommendation in the form of a Hearing Officer's Report to the Secretary dated February 10, 2006, and that report is expressly incorporated herein by reference.

## **II. Findings and Conclusions**

On the basis of the record developed in this matter, it appears that the Department has provided a sound basis with regard to the proposed regulatory action concerning the amendment to Regulation No. 1201. Furthermore, the Department provided the public with numerous opportunities to offer comments with respect to this issue, with both a workshop offered prior to the public hearing, and an additional period of time during which the record was left open subsequent to the hearing for any additional concerns or comments to be provided by the public, should anyone wish to contribute same.

## **III. Order**

It is hereby ordered that the proposed adoption of the amendment to Regulation No. 1201, "Accidental Release Prevention" should be promulgated in final form in accordance with the customary and established rule-making procedure required by law.

## **IV. Reasons**

The adoption of the proposed amendment will allow the inclusion of Federal amendments made in 1999, 2000, and 2004 by the EPA to the Accidental Release Prevention Requirements contained in Federal Rule 40 CFR Part 68, thereby bringing the existing Delaware regulation into overall agreement with the most recent Federal rule changes. Moreover,

the amendments to existing Regulation 1201 will result in clarification for the benefit of owners and/or operators of facilities containing substance(s) on Delaware's designated list of extremely hazardous substances, and will assist the Department in furtherance of the policy and purposes of 7 Del. C., Ch. 60.

/s/ John A. Hughes.  
John A. Hughes  
Secretary

Ahear\ Reg.1201.Amendment.Ord